

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

NELSON ORELLANA,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Case No.: 5:13-CV-00698

ORDER VACATING AND RESETTING
BRIEFING SCHEDULE

Petitioner Nelson Orellana (“Petitioner”) is currently serving a 68-month sentence following his conviction for conspiracy to distribute 500 grams or more of cocaine. On January 4, 2013, Petitioner, proceeding pro se, filed a motion to vacate, set aside, or correct his sentence and conviction pursuant to 28 U.S.C. § 2255 (“Petition”). ECF No. 1.

On August 15, 2014, this Court issued an order to show cause which set a briefing schedule regarding the Petition. ECF No. 2. The order directed Petitioner to file with the Court and serve on Respondent, within 30 days from the date of receiving the order, a supporting memorandum of points and authorities. *Id.* at 2. Respondent was ordered to file and serve on Petitioner, within 90 days of the issuance of the order to show cause, an answer showing cause why the Court should not vacate, set aside, or correct the sentence. *Id.* The Petitioner would then have had 30 days to file and serve a reply. *Id.*

1 In October 2014, the Court was informed that its order to show cause was returned as
2 undeliverable, as Petitioner had been transferred to another prison. On October 8, 2014, the Court
3 re-served the order to show cause on Petitioner. ECF No. 3. A total of 54 days have elapsed since
4 the order to show cause was re-served.

5 On November 3, 2014, Respondent filed a motion to vacate briefing schedule and re-set
6 filing deadlines.¹ ECF No. 326. In the motion, Respondent requested that the Court vacate the
7 briefing schedule set in the order to show cause. *Id.* at 2.

8 Good cause appearing, the Respondent's motion to vacate the previously set briefing
9 schedule in this matter is GRANTED, and the briefing schedule is VACATED.

10 The briefing schedule is reset as follows:

- 11 1. Respondent is ordered to file with the Court and serve on Petitioner, within 45 days of the
12 issuance of this order, an answer conforming in all respects to Rule 5 of the Rules Governing
13 Section 2255 Cases, showing cause why the Court should not "vacate, set aside, or correct the
14 sentence" of Petitioner.
- 15 2. Within 30 days of receiving the Respondent's answer, Petitioner shall file his reply, if any,
16 and serve it on the Respondent.
- 17 3. Petitioner is reminded that all communications with the Court must be served on
18 Respondent by mailing a true copy of the document to Respondent's counsel. Petitioner must also
19 keep the Court and all parties informed of any change of address.

20
21 **IT IS SO ORDERED.**

22
23 Dated: December 1, 2014

24 
25 LUCY H. KOH
26 United States District Judge

27
28 ¹ The motion to vacate briefing schedule and re-set filing deadlines was filed in the related criminal
case, *United States v. Orellana*, No. 09-CR-00096-LHK.